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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/292,152 04/15/99 FISCHER

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EXAMINER

NGUYEN, D

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 08/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/292,152

Applicant(s)

Michael A. Fischer

Examiner

Dinh Nguyen

Group Art Unit

3752



☒ Responsive to communication(s) filed on Jun 15, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 and 21-35 is/are rejected.

☒ Claim(s) 2-20 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3752

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1, 21, 28, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ponte.

Ponte discloses an early suppression fast response pendent-type fire protection sprinkler 10 for use in accordance with NFPA standards, a ceiling height of 29 feet (column 6, line 5), K factors of 17, 22 and 25 (column 4, lines 8-9), and water pressure at 12 psi (column 5, line 44).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 22- 27, 29-31, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ponte.

Ponte discloses the claimed invention except for the maximum storage height of 30-40 feet, the maximum ceiling height of 35-45 feet, and the water pressure of 20-40 psi. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have provided the fire protection sprinkler of Ponte with the maximum storage height of 30-40 feet, the maximum ceiling height of 35-45 feet, and the water pressure of 20-40 psi, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Borsch, 617 F.d. 272, 205 USPQ 215 (CCPA 1980) .

Allowable Subject Matter

5. Claims 2-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed June 15, 2000 have been fully considered but they are not persuasive.

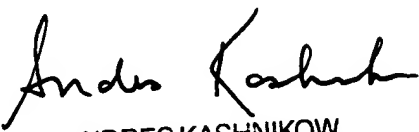
7. Applicant's arguments with respect to claims 1, 21-35 have been considered but are moot in view of the new ground(s) of rejection.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Nguyen whose telephone number is (703) 305-0248.

dqn

August 25, 2000


ANDRES KASHNIKOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
8/25/00